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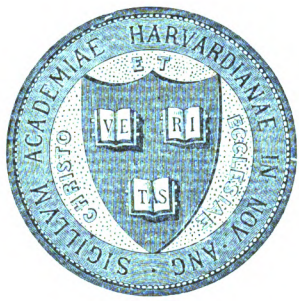

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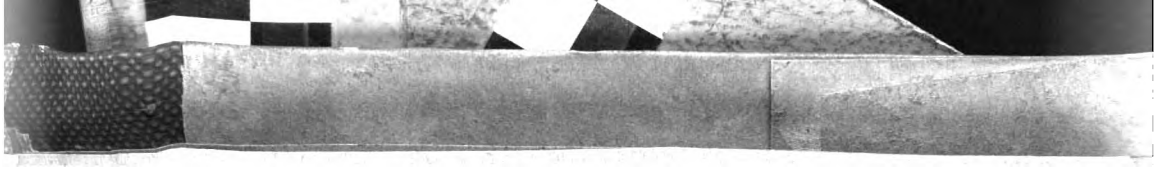

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UNIVERSITIES AND THE BAR.

A CRITICISM

OF THE

ANNUAL REPORT OF McGILL,

FROM A FRENCH-CANADIAN STANDPOINT.

MR. PAGNUELO, Q.C., SECRETARY OF THE BAR, REPLIES TO THE GOVERNORS.

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UNIVERSITIES AND THE BAR.

A Criticism of the Annual Report of McGill from a French-Canadian standpoint.

MR. PAGNUELO, Q.C., SECRETARY OF THE BAR, REPLIES TO THE GOVERNORS.

TO THE EDITOR OF THE GAZETTE.

SIR,—The GAZETTE of the 5th inst. contains the annual report of McGill university for 1886, and an editorial thereon, to which I think I am justified in answering.

I would not attempt to criticize the doings or opinions of the governors of McGill university, did not that report contain an unfair and unjustifiable attack upon our French-Canadian and Catholic fellow citizens, calculated to create and to foster feelings of distrust, if not of prejudice, between the different races and creeds of our population.

The great and extended influence of McGill university all over Canada; the reputation of its principal, Sir William Dawson, one of the signers of said report with the Hon. James Ferrier, make it imperative on all good citizens, familiar with the facts, to contradict those ill founded statements, as well as the unfair imputations against the majority of the population of our province.

The question concerns superior or university education for the liberal professions of law and medicine.

The report bitterly complains that the councils of the bar and of the medical profession contemplate new encroachments upon the privileges of the Protestant universities, to deprive their graduates of the right they enjoyed previous to Confederation, to be admitted to the study and practice of those professions without examination by advocates or physicians. It goes on to state that the examination required by the bar "is not calculated to raise the standard of professional education"; "it will have the contrary effect, and can only tend to the exclusion of educated men, more specially those of the English-speaking minority, from entering into the legal profession."

The report plainly charges the councils of the bar and of the medical profession with depriving Protestant universities of privileges as to examinations, and of transferring them to boards under the control of the Roman Catholic majority.

"In so far as the province of Quebec is concerned, it is believed that the disabilities thus inflicted on the graduates of the Protestant universities are contrary to the spirit of that provision of the law of Confederation which guarantees to the English and Protestant minority of this province the educational privileges which it possessed before Confederation, and that such action is not within the power of the local Legislature. It has been proposed to test this question by submitting a case to counsel, should our present appeals to the local Government and Legislature be unavailing."

Were such a report not signed by Sir Wm. Dawson—who has made for himself the repu-

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tation of a serious man and a *savant*—advised, no doubt, by men competent to speak upon the old and actual law regulating the legal and medical professions, and upon the intentions of the councils of those two professions, one might be led to believe that the main object of the report was to prepare good Protestants to respond generously to the appeal for funds which concludes the report, and also the editorial of the GAZETTE.

But I cannot entertain such a thought. This document is of too much importance not to believe that Sir Wm. Dawson and the board of governors of McGill university are really convinced that the French and Catholic majority are persecuting the English and Protestant minority.

This impression is confirmed in my mind by an article in the *Star* of March 19th, wherein the same accusations are repeated, and mention is made of an agitation being started in the form of committees, appeals to Protestants, petitions, etc.

There is nothing to justify these various statements, and I am surprised that a public institution of the respectability of McGill university should make them publicly.

I here state: Never have the graduates in arts, literature or sciences of any university, either French or English, Catholic or Protestant, been admitted to the study of the law without a preliminary examination by the Bar on their classical attainments. Never have the graduates in law of any university in Canada been admitted to the practice of the law, without having been first admitted to study by the Bar examiners; without having studied with a practising advocate during four or five years, and, finally, without passing an examination on law before the Bar examiners. Therefore, there has been no encroachment by the council of the Bar in that direction upon the rights of the English Protestant minority such as they existed in 1867, before Confederation, nor upon the rights or privileges of any university, Catholic or Protestant. (See the Bar act of 1866.)

Changes have since been made in the law respecting the legal profession; but none of the nature mentioned in the report of the principal of McGill university; and I am sure that the governors of McGill university—being better informed—will not only respect our intentions, but also bear testimony (as all French and English advocates have done repeatedly) that the effect of these changes was to raise the standard of classical and legal studies.

Instead of four local boards of examiners for admission to the study and practice of law, we have established one central board for the whole province, in order to ensure an uniform and higher standard.

The preliminary examination is no longer conducted (as formerly) by advocates alone, who admitted themselves incompetent; it is made by three professors in classical colleges, who prepare written questions and correct the answers. Advocates assist at the oral examination.

A programme for preliminary examination has been adopted defining what constitutes a liberal and classical education. It was adopted unanimously by English as well as by French advocates, including professors of McGill and Laval, members of the board of examiners and of the general council.

It should be known to Sir William that one of the said examiners is the principal of McGill High school, who has also, conjointly with his two colleagues, recommended our programme.

Sir William has hitherto found no fault with our organization, nor with our programme or *curriculum*, nor with the said examiners.

Some French colleges, however, raised a cry at the time with our *curriculum* as they were not quite on a level with it. But they never pretended that we were infringing upon their rights or privileges, or that we intended to destroy Catholic or French colleges.

Sir William is ill-informed when he says that the Council of the Bar "contemplates further encroachments" on the rights of universities, or when he states that graduates of universities enjoyed any privileges as to admission to study or practice of which they have been deprived, or of which it is contemplated to deprive them.

I hope the time will come when graduates of universities will be admitted to the study of all liberal professions without further examinations; but in the opinion of the Council of the Bar that time has not yet arrived.

Our rules are general and uniform for all universities, and as it is considered that degrees are as yet too freely granted in order to avoid anything like discrimination, no privilege is accorded to any.

The following passage of the report is noteworthy: "With regard to the Bar act, it is

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"to be observed that the whole regulation of "the examinations, both for admission to "study and admission to practice, is trans- "ferred from the universities to the Council "of the Bar."

It is here insinuated that the Council of the Bar assumes the control of the examinations made by the universities themselves, and thereby encroaches upon their rights and privileges. Nothing is more mischievous and hurtful than such an insinuation, especially when it is made to co-religionists, whose feelings are tried to be moved by such statements and by others such as the following: That these infringements on the rights of the minority "only tend to the exclusion of the English speaking minority from the profession," "that Protestant universities have a right to decide for themselves the course of study adequate for a degree;" "that it is unjust to hand over the educational rights of Protestants to a council of whom all may be, and the majority must be, Roman Catholics, etc." We are told that resolutions embodying these propositions and others of the same nature have been adopted by the corporation or a commi tee appointed by the corporation of McGill university (it is not clear which), and forwarded to the Council of Education (*Star* 19th March.) "It is said," adds the *Star*, "that the effect of such changes as have taken place and are contemplated, will be *to kill completely Protestant education in Quebec, at least to Quebecers*." It is surprising that such things should be written by the head of the highest educational institution of the English Protestant minority. I have to again repeat that graduates of colleges and universities have never been admitted to the study or to the practice of the legal profession without a previous examination by the Bar. It is not easy to deprive universities of rights that they never possessed.

What now becomes of the statement that such a change (which never took place) was to kill Protestant education?

Universities and colleges are and still remain masters of their course of studies; of their curriculum; and of their examinations To insinuate that the council of the Bar decides for universities the course of studies adequate for a degree, is most mischievous and as untrue as it is mischievous Universities are free to g ant degrees to whomsoever they please, and with or without examination, just as they please. Nobody, outside themselves, thinks of dictating to them their course of studies; but liberal professions are also free to protect themselves and the public, and before granting any advantage to the possessor of a university degree, they are also free to ascertain that those degrees have not been granted to unqualified persons.

I utterly deny that "the constitution of the council of the bar in the province of Quebec is such that it must always have a large majority of Roman Catholics, and that it might consist wholly of Roman Catholics."

Of course, the majority is French and Catholic, when four-fifths of the members of the corporation are French: but it is a grievous mistake to say that the constitution of the general council of the Bar is such that it might consist wholly of Roman Catholics. On the contrary, the mode of election of members of the council, and of the Board of Examiners is such that the English Protestants have always a larger representation than they are entitled to from their number. We do not grudge it. In fact, it never entered into our minds to consider what would be the relative proportion of English and French; but as a matter of fact—and the question being raised by outsiders,—I may say that the constitution of the council and of the board of examiners is just the reverse of what it is stated to be by Sir Wm. Dawson.

The council of the Bar for the province comprises eleven members, ten of whom are elected by the sections; the eleventh is the secretary and is elected by the council.

There are six sections: Montreal with about 440 members; Quebec, 160; Three Rivers, 32; Sherbrooke, 32; Arthabaska, 18, and Bedford, 22.

The majorities in Sherbrooke and Bedford are English. Sherbrooke, with its 32 members, sends two delegates; Quebec, with its 160 members (three-fourths of whom are French), sends the same number; and Montreal, with its 440 members (three-fourths of whom are French), sends no more; Three Rivers sends 2; Bedford, with 22 members, sends 1; and Arthabaska, with 18 members, sends 1.

Is it possible that the council be *wholly* composed of Catholics when two of the sections, out of six, are Protestant?

It may be observed that Montreal and Quebec generally choose one English delegate out of two.

So much for the justice of the appeal to Protestant prejudices.

As to the board of examiners the accusation is not more fair.

Each of the six sections elects an equal

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number of examiners, to wit: three, so that Bedford and Sherbrooke elect the same number as do Montreal and Quebec. The result is that out of eighteen examiners eight are actually English.

I am sure that Sir Wm. Dawson would never have signed his report had he known these facts.

One word more about the examinations for practice.

The Bar act of 1886 made it lawful for the Governor-in-Council to prescribe the university course of lectures on law, without which the degrees granted by universities would not avail to shorten the time of clerkship. This power has been transferred to the general council of the Bar on the suggestion of the Government itself, who refused to act upon that law.

The Council of the Bar has prescribed a curriculum of legal lectures during three years upon each branch. Unless that programme be effectively followed by the university and the student, the examiners may refuse to the graduate the shortening of his clerkship from five to four years.

This is what is called by the report an encroachment on the rights and privileges of universities!!

Now comes the question:—Was there any reason for such a by-law?

Certainly. All familiar with the question admit that the teaching of the law in most universities in our province was incomplete. Many important branches were not taught at all; others were taught only in name. I might go farther and say that at least one legal faculty gave lectures only for form's sake to four or five students, who had not more than three or four lectures in a year from each of their three or four professors—or about a dozen in all! Is that teaching? Our by-law requires that the graduated students who claim a year's exemption, fyle certificates of the number of lectures which they have followed every year in each branch.

Universities are free to give the number of lectures, and to exact such examination as they please; they may also grant degrees to whomsoever they like, without hindrance or interference from the Council of the Bar; but, on the other hand, the Bar is also free to admit into its corporation those only whom they consider properly qualified.

This is surely not invading the rights or privileges of others; it is only using one's own rights and privileges.

The McGill report attributes these encroachments to several education fallacies: "One is that examinations alone can raise the standard of education." Not at all. The standard in colleges and universities, both French and English, must be raised to the level of *our* curriculum, should the colleges and universities wish to see their pupils pass the bar examination.

"Another is, that extra academical examiners should be employed."

My answer is, that for the preliminary examination, advocates have already acknowledged themselves incompetent, and have asked the help of three professors of classical colleges.

Physicians, I am in a position to state, do the same. As for the examination for practice, all legal faculties are represented on the board of examiners; and all medical faculties are also represented by their professors on the board of governors and examiners.

"A third (fallacy) is that the multiplication of lectures is the best method to raise the standard of education; whereas it has been proved by experience that this can best be done by the employment of skilled and eminent professors, by the cultivation of habits of independent study, and by the extension of practical work."

If I understand well the learned principal of McGill university, he means to say that what is wanted is, on the one hand, skilled and eminent professors to teach, and on the other, students who would work by themselves.

The skilled and eminent professors must teach the working and studious pupils. But how often? That is the question again. We believe that a dozen lectures given when sixty or seventy are on the programme of the university, or when a hundred should be given, is not enough.

The most eminent lawyer or physician will not neglect his practice in order to give gratuitous teaching to a few students. He will lecture, when he can, without injuring his practice. He will not mind being absent for two or three consecutive months during the sessions of Parliament, should he be a member of Parliament; when in town he will lecture now and then at his own convenience. Students, after short, irregular attendances, will cease going altogether. At the year's end no reproach can be made to the student without reflecting on the master, and nothing is said. All, or nearly all, the students are

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declared bachelors, and this is what is tried to be continued, by declaiming against "the multiplication of lectures *as a most lamentable educational fallacy.*

We hope that all professors are skilled and eminent, but that concerns the universities. What we require is that the professors give the prescribed number of lectures, and that the students attend them. Afterwards our examination will show what they know.

For many years such a regulation has been imposed by the Medical act on students who wish to obtain their license to practice. If Protestant universities alone feel that regulation, would it not be a sign that they most require it?

In Ontario, all law students, whether they have graduated or not, have to pass two examinations before the bar examiners in order to be admitted to practice. "The benchers may make rules for the improvement of legal education, and may appoint readers and lecturers with salaries, and may impose fees *and prescribe rules for the attendance of students and articled clerks at such readings and lectures.*"

It seems that this is encroaching largely upon the teaching power of universities, and shows a great diffidence in university teaching. Would not the forced attendance of students and articled clerks at such readings and lectures kill all university teaching?

How is it that our comparatively mild and inoffensive regulations should be so vigorously denounced as an encroachment on the rights and privileges of universities, *designed to kill Protestant education,* in the face of the existing legislation in the English and Protestant province of Ontario?

As for the Medical act, and the changes made or contemplated, the charges brought have no better foundation than those against the Legal act.

Formerly each medical faculty or school admitted to study, not graduates, but all who asked to be admitted as students. With three medical faculties at that time, in a city of less than 150,000 it may be easily imagined what competition there was. No unemployed clerk or salesman was refused; the least elementary instruction was sufficient The grievance was such that physicians generally called for a central board of examiners, without in any way suspecting that they were invading the rights or privileges of universities.

As for the license, the Medical college granted a license to a university graduate without further examination, provided the assessors appointed by the Medical college to attend the examinations at each university reported favorably on the examination, and certified that the number of lectures prescribed by law had been given at the university, and attended by the graduates, and that the curriculum had been followed.

The Council of Physicians has, I understand, ordered that all medical students pass an examination before a central provincial board of physicians composed of two representatives from each medical faculty, and of an equal number from among practising physicians not connected with universities.

I do not know whether there was any special reason for so doing, but I know of a general one which all recognize as valid:

The Ontario Medical act registers no physician, whether graduate or not, unless he passes an examination before the Ontario Central Board of Examiners; this law applies to graduates of Ontario universities as well as of Quebec universities.

Now, all the medical profession asks for, and Sir Wm. Dawson joins them in this in his report, a reciprocity law between all the provinces, whereby a physician licensed in one province may practice in any other province by simply registering his license there.

Such reciprocity is granted by the Ontario Medical act to all who have been admitted to practice in their province after an examination by a central provincial board. They do not accept as sufficient McGill's or Laval's diplomas, but they would be satisfied with that granted by a central provincial board, such as that now asked by the council of the Quebec medical profession, and which is framed upon that of Ontario. Confidence here is evidently with the central board examination and not with that of the universities.

Are not the example of Ontario, and the desire of obtaining registration in Ontario for all Quebec physicians, sufficient reasons for the change contemplated without having imputed motives of hostility to any portion of our population?

Such a change would be more in McGill's favor, perhaps, than in that of any other Quebec university, on account of the large number of Ontario medical students who attend the lectures of that university.

French-Canadians and Catholics of all classes—advocates as well as physicians—have given so many proofs of their respect for the rights of other nationalities and

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creeds ; and also of their generosity even, as the people of Montreal have been lately repeatedly told by the Hon. J. J. C. Abbott, that the governors of McGill university are without any excuse for their ill considered report, or for the baneful agitation they would wish to start.

I feel confident that the common sense and spirit of fair play so characteristic of the English people will not countenance the efforts now being made to create ill-feeling between races and creeds who live peacefully together, and only want more intercourse to be able to appreciate each other better.

As to an appeal to courts of justice, there is, first of all, nothing on which to base it. In the second place, were it not for the noxious agitation that would necessarily follow, and the hopelessness of the task, I would gladly invite the McGill authorities to attempt it.

I shall only add that the guarantees said to be granted by the Confederation act to the English and Protestant minority in Quebec, under clause 93, only refer to *separate common schools* existing in favor of the minority in Ontario and Quebec ; and such clause has no bearing on the present question.

Apologising for the unavoidable length of this communication,

I am, sir,

Yours truly,

S. PAGNUELO,

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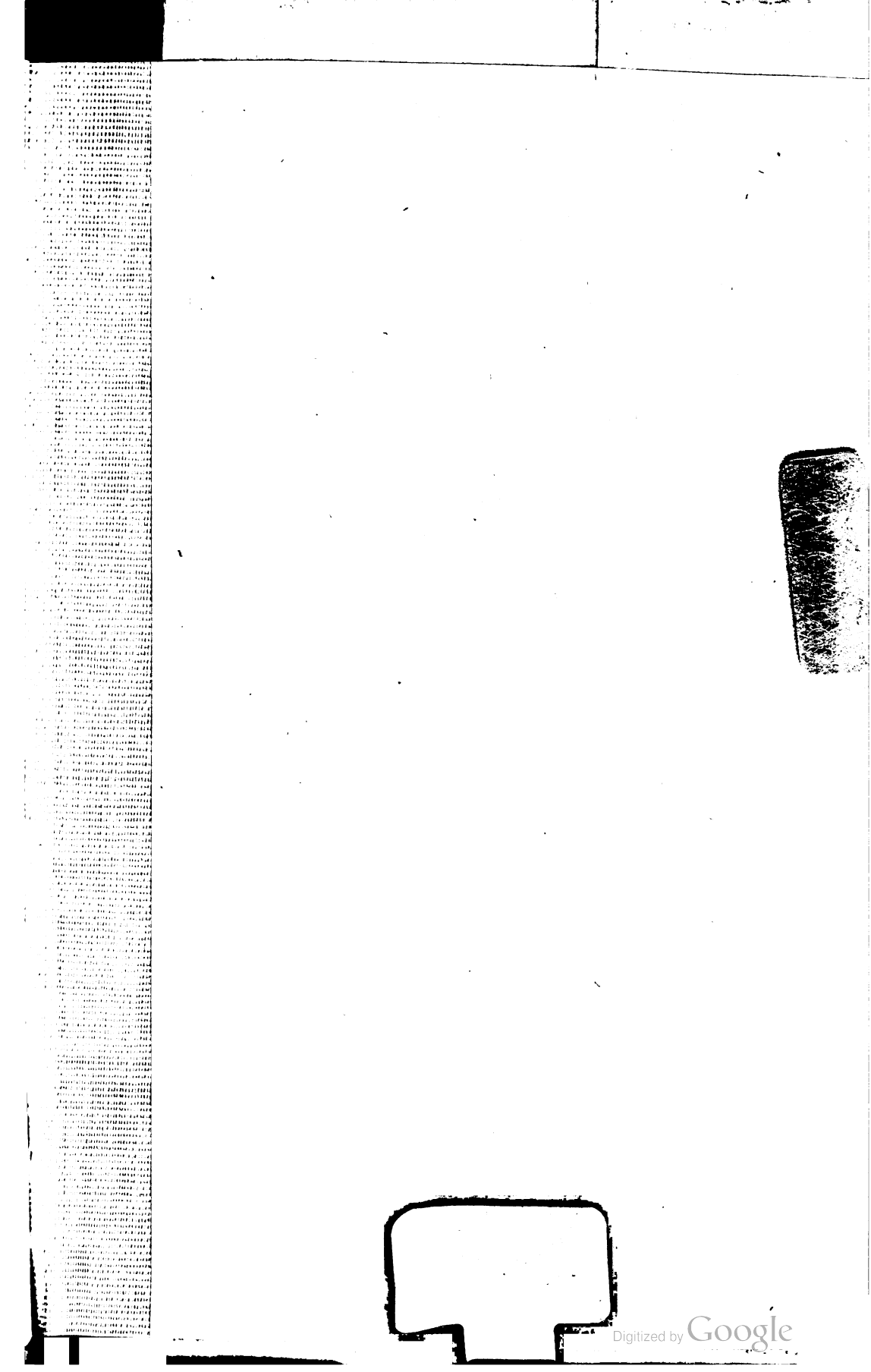
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